IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2808/2003.

PETITIONER : Nathu Ram Suryavanshi S/o Sadh Ram Suryavanshi, aged about 59 years, resident of Jagmahant, Tehsil Nawagarh, Distt. Janjgir-Champa (C.G.).

P.R. No. 26532/03
Presented by Shri P.K. Paker
dated 05.09.03

Versus

RESPONDENT : Raja Singh S/o Takhat Singh, aged about 50 years, resident of Jagmahant, Tehsil Nawagarh, Distt. Janjgir-Champa (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA :

XI-HC-22

(22)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

मामला क्रमांक W.P.2808/ सन् 2003

विरुद्ध

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**10.09.2003**

Heard Shri Pushpendra K. Patel, counsel for the petitioner.

The petitioner has filed this petition under Article 226/227 of the Constitution of India, by which he has challenged the impugned judgment dated 04.04.2003 passed by the Second Additional Sessions Judge, Janjgir, in Civil Appeal No.2-B/2000, whereby, the appellate Court maintained the judgment and decree dated 25.11.99 passed by the Second Civil Judge, Class-II, Janjgir, in Civil Suit No.32-B/96, by which the suit of the petitioner for recovery of Rs.3,000/- was dismissed.

The petitioner's case is that he filed a civil suit against the respondent before the Court of Second Civil Judge, Janjgir, for recovery of Rs.3,000/-, on the ground that on 23.09.1980 the petitioner kept Rs.3,000/- with the respondent as ~~surety~~ trust amount and a receipt was also executed by the respondent in favour of the petitioner, but on demand the respondent had not returned the amount. The trial Court vide its judgment dated 25.11.99 reached the conclusion that the plaintiff has filed to prove that he kept Rs.3,000/- with the defendant. The Court observed that even the witnesses to the receipt have not been examined, therefore, the receipt which is said to be executed in lieu of Rs.3,000/- has not been proved. Accordingly, as per the judgment of the trial Court, the plaintiff/petitioner failed to prove that he gave Rs.3,000/- to the respondent against which the plaintiff/petitioner preferred an appeal and the learned appellate Court also dismissed the appeal affirming the judgment and decree of the trial Court. Since under the amended provision of the Code of Civil Procedure no second

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(23)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक W.P.2808/ सन् 2003

विरुद्ध

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित — 2 — | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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appeal lies, the petitioner has preferred this writ petition under Article 227 of the Constitution of India.

Under Article 227 of the Constitution of India, this Court cannot exercise its jurisdiction as a Court of appeal. This Court is entitled to interfere with the finding of the subordinate Court only when the subordinate Court has exercised its jurisdiction which was not vested with that Court or has not exercised the jurisdiction which was vested in the Court or exceeded the jurisdiction or passed any order contrary to the law. The jurisdiction under Article 227 of the Constitution of India is a supervisory jurisdiction by which the Court can keep the subordinate Courts within their limits as per the law. The jurisdiction under Article 227 of the Constitution of India cannot be exercised as a Court of appeal. In the circumstances, the concurrent finding of both the Courts cannot be disturbed as a Court of appeal.

Therefore, there is no substance in this petition and the same is liable to be dismissed. Accordingly, the petition is dismissed.

Consequently, I.A.No.8403/2003 stands disposed of.

Sd/-
L.C. Bhadoo
Judge

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